IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7361 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMESHBHAI T BHATT

Versus

STATE OF GUJARAT - DELTED - AS PER CT'S ORDER DT 18.11.88

Appearance:

None present for Petitioner

Respondent No.1 - Deleted

MRS KETTY A MEHTA for Respondent No. 2, 4

MR SR PATEL for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 29/06/2000

ORAL JUDGEMENT

1. Sick note of Shri K.G. Pandit, counsel for the petitioner is there and as a result of which the matter has to be adjourned but as this matter is to be decided

in favour of the petitioner, I do not find any necessity to adjourn this matter.

2. It is not in dispute that the petitioner is in possession of the house in dispute. Originally this house was allotted to the respondent No.3 and through whom the petitioner has been inducted in possession.

3. The counsel for the respondents No.2 and 4 states that balance amount of costs of this house has been paid by the petitioner to the Housing Board. Now it is a dispute in between the petitioner and the respondent No.3. So far as the Housing Board is concerned, it has received its full amount of costs of the house. The counsel for the respondent- Housing Board very fairly submitted that the Housing Board, its employes and servants have now nothing to do with this possession of the petitioner nor they will take any action for his dispossession.

4. Now only grievance of the petitioner is that this house has to be transferred in his name by the Board. The counsel for the Board states that unless the original allottee gives a consent of transfer, it cannot be transferred in the name of the petitioner.

5. I fail to see any justification in this approach of the respondent-Board. The respondent-Board has been paid full costs of the house and the petitioner is the person who paid part of the costs and in case this house is transferred in the name of the petitioner the Board will not suffer any loss or prejudice.

6. The respondent No.3 is also a party to this proceeding but his learned counsel is unable to make out any submission. His only contribution is to state that the papers of the matter are not with him nor he knows what for this matter is listed. It is really shocking that the members of the Bar are coming in the High court in such a way and the manner that the papers are not with the counsel or what for the matter is listed is not known and it is really very serious. It is unfortunate that a poor litigant despite of engaging an advocate got this type of representation for which he has to thank to his stars. The respondent No.3 has also not filed any reply to the special civil application.

7. In the result, this special civil application is disposed of in terms that in view of the fact aforestated the Board its employees, servants, officers may not interfere with the possession of the petitioner. The

house in dispute may be transferred in the name of the petitioner in the record. The special civil application and Rule stand disposed of accordingly. As none is present for the petitioner, no order as to costs.

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zgs/-